

REMARKS

Claims 1-44 remain pending. The Examiner has allowed claims 1-42 as being distinguishable over the prior art.

The Examiner has also rejected claims 43 and 44 under 35 U.S.C. §102(e) as being anticipated by Emons et al. (U.S. patent 6,671,681). The Examiner has stated that Emons teaches the following: parsing the packet data; initializing a search based on the parsing of the packet data; and outputting search results based on a searching procedure performed on the packet data and the parsing of the packet data. However, it is respectfully submitted that claims 43 and 44 are in the form of "means plus function" claims, and hence, these claims should be interpreted in light of the structure recited in the specification. MPEP §2181 states (emphasis added):

When making a determination of patentability under 35 U.S.C. 102 or 103, past practice was to interpret a "means or step plus function" limitation by giving it the "broadest reasonable interpretation." Under the PTO's long-standing practice this meant interpreting such a limitation as reading on any prior art means or step which performed the function specified in the claim without regard for whether the prior art means or step was equivalent to the corresponding structure, material or acts described in the specification. However, in *Donaldson*, the Federal Circuit stated:

Per our holding, the "broadest reasonable interpretation" that an examiner may give means-plus-function language is that statutorily mandated in paragraph six. Accordingly, the PTO may not disregard the structure disclosed in the specification corresponding to such language when rendering a patentability determination.

MPEP 2182 also states that "if a prior art reference teaches identity of function to that specified in a claim, then under *Donaldson* an examiner carries the initial burden of proof for showing that the prior art structure or step is the same as or equivalent to the structure, material, or acts described in the specification which has been identified as corresponding to the claimed means or step plus function."

For "means plus function" type claims that are directed towards algorithms or techniques that are implemented by a processor, each "means plus function" limitation is interpreted in light of the specified algorithms disclosed in the specification. Specifically, the Federal Court in WMS Gaming Inc. v. International Game Technology (7/20/1999, No. 97-1307) stated:

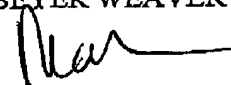
The structure of a microprocessor programmed to carry out an algorithm is limited by the disclosed algorithm. A general purpose computer, or microprocessor, programmed to carry out an algorithm creates "a new machine, because a general purpose computer in effect becomes a special purpose computer once it is programmed to perform particular functions pursuant to instructions from program software." In re Alappat, 33 F.3d 1526, 1545, 31 USPQ2d 1545, 1558 (Fed. Cir. 1994).

The Court also clarified that "[i]n a means-plus-function claim in which the disclosed structure is a computer, or microprocessor, programmed to carry out an algorithm, the disclosed structure is not the general purpose computer, but rather the special purpose computer programmed to perform the disclosed algorithm. See Alappat, 33 F.3d at 1545, 31 USPQ2d at 1558.

In light of the forgoing, claims 43 and 44 require structure in the form of the specific algorithm embodiments disclosed in the specification. Several specific embodiments are described in the text associated with reference to Figures 3, 4A, 4B, and 5. Since the cited reference Emons et al. fails to teach or suggest such specific techniques (or any other embodiments specified in the specification), claims 43 and 44 are patentable over Emons et al.

Applicant believes that all pending claims are allowable and respectfully requests a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,
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